

Tab 5 – RFP PROCESS AND SCHEDULE

All four existing agreements (2002 contracts) for solid waste and recycling collection services and yard trimmings and street sweeping services cover service from July 1, 2002, for an initial period of five years. Each contract contains provisions for two three-year extensions for a total of 11 years based on certain criteria being met. On October 4, 2005, a Status Report and Schedule for Recycle Plus Agreement Extensions was presented to Council to discuss potential three-year extensions of the terms of the Recycle Plus 2002 contracts. In this report, a contingency planning process was discussed as a mechanism to ensure continuity of service in the event that that any one of the proposers did not meet its performance targets or did not accept a contract extension.

On November 29, 2005, Council approved the policy direction for the potential issuance of the 2007 Recycle Plus RFP. Among the provisions included were six-year contract terms from July 1, 2007 to June 30, 2013; used collection vehicles in good condition would be allowed; the current days of collection would be maintained; prevailing wages would be paid to MRF (material recovery facility) workers; and employee retention requirements of the existing contracts would be maintained as well as the labor peace requirements.

In December 2005, GreenWaste Recovery and GreenTeam each accepted the City's offers of three-year contract extensions. Norcal, however, notified the City in December that the company would decline any extension offer made by the City for garbage and recycling services. The City Council approved not to offer an extension to Norcal for these services on December 13, 2005. Additionally, Norcal declined the City's offer to extend its contract for yard trimmings and residential street sweeping services.

Since effective July 1, 2007, the City will not have a contract in place for solid waste and recycling collection services for District A and C and yard trimmings and street sweeping services for District C, on January 24, 2006, Council approved the procurement process, including the Source Selection Plan, for the 2007 Recycle Plus RFP, which included recently approved reforms to the City's Request for Proposal process. Additionally, Council directed staff to allow potential proposers to submit proposals for only recycling or garbage collection services or combined recycling and garbage collection services, to consider increasing the number of dumpster days (Neighborhood Clean-ups) and street sweeping services, and to include the cost for administering additional contracts in the evaluation process. In accordance with Municipal Code Section 4.13, staff recommended a Request for Proposal process as the procurement method for these services. Through the use of an RFP, the City is able to include non-price factors such as Technical Approach, Experience, and Customer Service as award criteria. An electronic copy of the Request for Proposal document and related addenda are included on a compact disk in the Study Session Binder.

The Source Selection Plan (Exhibit 1, Tab 5) is an agreement between Finance and Environmental Services dedicating resources to this procurement, describing a timeline for completion of the procurement, outlining the evaluation factors and respective weights, and formulating the outreach plan.

MILESTONES AND RFP PROCESS

This section summarizes the key milestones of the RFP process: the procurement process integrity guidelines, timeline, outreach and pre-proposal conference, submission of proposals, and evaluation process.

Procurement Process Integrity

The 2007 Recycle Plus RFP incorporates the Procurement Process Integrity Guidelines used in recent RFPs and Council approved RFP process enhancements. Specifically, all communication regarding the RFP was directed through the Procurement Contact as described in the Procurement Strategy Memo approved on January 24 and three Information Memoranda to Council (February 17, May 1, and May 12). These memoranda can be found in Tab 7 of the Study Session Binder. Further, all communication between the proposer community and the City was in writing. For example, questions from proposers were issued with the corresponding answers through various addenda (see Addendum Summary in Exhibit 2, Tab 5).

To ensure that the RFP did not restrict competition, proposers were asked to raise any objections to the RFP process, requirements, or content to Finance prior to the submission deadline. No objections to the RFP were received.

To identify any real or potential conflicts of interests the Technical Evaluation Committee, Technical Advisory Committee, Executive Governance Committee, and consultants developing and/or advising the City on this RFP were required to complete a Conflict of Interest form (see Exhibit 3, Tab 5). To ensure confidentiality of the process, members of the Technical Evaluation Committee and Technical Advisory Committee completed a Confidentiality Agreement.

As discussed in this section, the technical evaluation consisted of three phases. The first and second phase had two sub-phases each. As the evaluation progressed, TEC members had to record for each phase and sub-phase the score for each sub-factor and document the reasons for a change in the scoring of sub-factors.

To ensure input from unsuccessful proposers whose proposal was deemed non-responsive, Finance allowed for a ten-day protest period. If Finance receives any protests, the protests and its respective resolution will be communicated to Council in a supplemental memorandum.

Timeline

The timeline for the RFP process was very aggressive and left little time for proposers to implement contracts resulting from the 2007 Recycle Plus RFP. Exhibit 4 in Tab 5 provides a summary of the RFP timeline.

Specifically, the limited preparation time for the 2007 Recycle Plus RFP and Council direction to allow for separate award of garbage and recycling collection services as well as the requirement for a separate proposal for an “all carts” option in the yard trimmings contract delayed the scheduled issuance from February 8 to February 15 of the RFP. Additional requirements by City staff and extensive communication between proposers and the City formulated in writing contributed to a large number of addenda to the RFP. Through these addenda, the City included a request for information for Automated Vehicle Location devices on street sweeping vehicles and for compressed natural gas or liquefied natural gas operations. Additionally, some proposers requested more time to prepare their response, resulting in an extension of the due date from April 3, 2006 to April 24, 2006. Staff allowed this extension to allow for receipt of quality proposals and to not unduly restrict the competitive process. Exhibit 2, Tab 5 summarizes the date of all addenda issued and the reasons for issuance. Due to the complex nature of the services, the evaluation process was completed by mid July.

Outreach and Pre-Proposal Conference

To ensure enhanced outreach to the potential vendor community, on January 3, 2006, the City directly notified the top 20 national solid waste firms, and the top 10 California based firms, as identified by Waste Age magazine in 2004, of the Recycle Plus RFP. In addition, direct notifications were mailed to all commercial haulers franchised in San José and all 134 firms and individuals who had expressed interest in the 2000 Recycle Plus RFP after nationwide advertising.

To address Council direction to facilitate the submission of only recycling or garbage collection services, staff implemented a revised outreach strategy to make sure qualified proposers were aware that they could propose on separate smaller service categories. This new information was posted on the Demand Star website and new ads were placed in the Mercury News, the San José Post Record, and the San José Business Journal. In addition, new direct mailings and emails were sent to the following audiences: top 100 solid waste companies identified by Waste Age magazine; all franchised haulers in San José; and all parties who had expressed interest in the 2000 RFP.

As a result of the comprehensive outreach to the waste hauling community, thirty-nine individuals representing fifteen companies or entities attended the Pre-Proposal Conference on March 3, 2006.

Submission of Proposals

On April 24, 2006, the submission due date for proposals, five proposals were received from companies offering to provide the respective services as outlined in Table 1 below. The names of these companies were released to the Council in an Information Memorandum dated May 12, 2006 (See Tab 7).

TABLE 1			
PROPOSALS RECEIVED			
Company Name	Solid Waste Service Districts A&C	Recycling Service Districts A&C	YT/RSS Service District C
California Waste Solutions	X	X	
Eagle Recycling		X	
Garden City Sanitation	X		
GreenWaste Recovery, Inc.			X
Norcal Waste Systems, Inc.	X	X	X

Organizational Structure

As can be inferred from the organizational chart (see Exhibit 5, Tab 5), Finance led the procurement process in consultation with the City Attorney's Office. The paragraphs below describe the roles and responsibilities of the Technical Evaluation Committee, the Technical Advisory Committee, the Executive Governance Committee, the City Auditor's Office, the City Attorney's Office, and the City Manager. The organizational structure promoted accountability and a clear delineation of roles and responsibilities and ensured support and commitment to a very complex and high profile procurement.

Per Council direction, the Technical Evaluation Committee was comprised of three Environmental Services staff members, two City staff members, and two external evaluators. Table 2 below lists the names and department and agency affiliation. Exhibit 6, Tab 5 provides a short biography of the TEC members.

TABLE 2	
TECHNICAL EVALUATION COMMITTEE MEMBERS	
Department and Agency Affiliation	Name
Environmental Services, City of San José	Debbie Basher
Environmental Services, City of San José	Donna Perala
Environmental Services, City of San José	Jo Zientek
Planning Building and Code Enforcement, City of San José	Mike Hannon
Transportation, City of San José	Tom Ferguson
Streets and Automotive Services City of Santa Clara	Ric Mauck
Integrated Waste Management Division, County of Santa Clara	Clifton Chew

The TEC was charged with independently evaluating the proposal submissions and arriving at a numeric value for each evaluation sub-factor. The evaluation form (Exhibit 7, Tab 5) lists the three technical evaluation factors and approximately 50 sub-factors depending on the service evaluated. In total, TEC members evaluated the technical proposals on 204 sub-factors.

The Technical Advisory Committee (TAC) was comprised of staff members representing Environmental Services, Public Works, the Department of Transportation, Finance, Information Technology, and the City Attorney's Office. A roster of TAC members can be found in Exhibit 8,

Tab 5. For the respective area of expertise, members of the TAC reviewed the applicable sections of the proposals, compared the proposal submissions with the RFP requirements, and summarized their findings in a report. After the TEC had their initial discussion about the proposals, TAC members presented their report to the TEC for consideration in the evaluation of the proposals.

In accordance with the Council approved RFP process, the City Manager appointed an Executive Governance Committee (EGC) comprised of Deanna Santana, Deputy City Manager, Katy Allen, Director of Public Works, Peter Jensen, Director of General Services, Jim Helmer, Director of Transportation, and John Stuffelbean, Director of Environmental Services. The EGC provided oversight and guidance to the RFP process. After completion of the evaluation, the TEC submitted to the Executive Governance Committee the award recommendations.

Members of R3 Consulting assisted the City with the development of the RFP, the cost analysis, and as technical advisors to the TEC. Lou Garcia, former Director of Environmental Services, served as a consultant to the Executive Governance Committee, and Barbara Stevens of Ecodata Consulting assisted Environmental Services with strategizing procurement and negotiation approaches to ensure a cost effective, efficient, and timely service provision. Biographies of consultants can be found in Exhibit 9, Tab 5.

Throughout the RFP process, Finance provided the Auditor's Office with documents at critical review points. The role of the Auditor's office will be explained in a memorandum issued by the City Auditor. As documented through this memorandum, the Auditor's Office identified three issues. First, the Auditor's Office made Finance aware that members of the Technical Evaluation Committee did not identify relationships with proposers in their current official capacity. Finance reviewed the relationships with the Technical Evaluation Committee and asked them to submit re-signed forms. The Auditor's Office also identified minor irregularities in the cost analysis model and a transposing error. These errors were corrected. Finally, the developed evaluation form did not correspond exactly to all evaluation requirements in the Request for Proposal. In order to balance the need for exact correspondence of evaluation sub-factors to requirements of the RFP and asking the Technical Evaluation Committee to evaluate a multitude of sub-factors, some sub-factors were grouped. However, Finance advised the Technical Evaluation Committee to ensure that all RFP requirements were to be evaluated.

The City Attorney's Office developed the Sample Agreements, reviewed the Request for Proposal, reviewed the Best and Final Offer process, and provided ongoing legal advice, and furnished a report summarizing the legal history submission of all proposals as a member of the Technical Advisory Committee.

The City Manager ensured that key milestones were met, kept informed about the status of the RFP process, provided guidance, and approved the award recommendations for the 2007 Recycle Plus contracts.

Evaluation Process

As discussed previously, staff evaluated cost and technical proposals separately. Price proposals were retained by Finance and analyzed with assistance from R3 Consulting. Pricing proposals were received for solid waste, recycling, and combined solid waste and recycling collection services for Districts A and C as well as for yard trimmings and street sweeping services for District C. The RFP encouraged proposers to submit discount pricing if awarded more than one service district. R3 Consulting entered the pricing proposals into a cost model to arrive at the highest scored combination of proposals, including credits for local and small businesses (see Exhibit 10, Tab 5 and for a copy of the Local and Small Business Preference form and Exhibit 11, Tab 5 for the Ordinance).

The technical evaluation process was divided into three phases:

- Phase I: Evaluation of the written proposals,
- Phase II: Oral interviews and site visits to material recycling facilities, and
- Phase III: Best and Final Offer process.

Prior to releasing proposals to the Technical Evaluation Committee, Finance staff ensured that all proposals received were responsive. Then, after receipt of signed Conflict of Interest forms and Confidentiality Agreements, technical proposals were released to the TEC and scored in accordance with Council approved evaluation factors and respective weights (see Table 3).

TABLE 3		
EVALUATION FACTORS AND WEIGHTS		
Evaluation Criteria	Description of the Evaluation Criteria	Weight of the Evaluation Criteria
Approach and Technical Solution	Evaluation of Proposers' approach to the RFP requirements and specifications and proposed solution including transition from current contractor, operation, processing, solid waste diversion, and commitment to equal employment, working conditions, labor relations, environmental stewardship, employee and public safety.	25%
Experience and Performance	Evaluation of experience of proposed management team assigned to this contract, evaluation of experience and performance providing services to agencies similar in size and services to identified collection districts, including review of pending and levied penalties, fines, and administrative charges and past and present lawsuits; and references from programs similar in size and services.	25%
Cost	Evaluation of all costs including impact on Recycle Plus rates.	25%
Customer Service	Evaluation of approach to implement customer service programs, public education, continuity and timeliness of service, performance measures, and measurements of outreach effectiveness.	10%
Financial Capacity	Evaluation of financial statements and independent financial reviews.	5%
Local Business Preference	Business with a legitimate business presence in Santa Clara County in accordance with the ordinance titled "Contracting Preferences for Local and Small Businesses."	5%
Small Business Preference	Local Business that has 35 or fewer employees in accordance with the ordinance titled "Contracting Preferences for Local and Small Businesses."	5%

Phase I – Written Evaluation

As part of Phase I, the TEC completed the initial evaluation of the written proposals, issued questions and received responses from proposers via the Procurement Contact, and received input from the Technical Advisory Committee. After completion of the Phase I evaluation process, Finance presented the price evaluation results to the TEC.

Phase II – Oral Interviews

As part of Phase II of the evaluation process, the TEC invited all proposers for oral interviews between May 23 and May 31. After oral interviews, the TEC issued additional questions, which companies could not respond to during the oral interviews and visited Materials Recovery Facilities (MRFs) for Norcal Waste Systems Incorporated and California Waste Solutions. The TEC visited Norcal's proposed MRF site and CWS' MRF site on June 7. The TEC did not visit Eagle Recycling, Inc.'s MRF in Hollister because Eagle did not propose the Hollister facility for processing San José material. As members of the Executive Governance Committee, Deanna Santana and John Stufflebean attended the oral interview phase of the evaluation process to advise the EGC.

At the completion of Phase II, the TEC evaluated the scoring of all companies to determine the competitive range of all proposals. The competitive range identifies companies who reasonably can achieve award of contract. Eagle Recycling, Inc. was not included in the competitive range due to the low technical score received. Finance debriefed Eagle on the strengths and weaknesses of their proposal.

Phase III – Best and Final Offer (BAFO)

The Best and Final Offer (BAFO) process allows the City to refine proposal requirements and request that proposers address shortcomings in their technical proposal and resubmit pricing proposals. The City cannot issue an additional requirement through a BAFO, which would have reasonably resulted in receiving additional proposals. For example, the City could not have issued a BAFO requesting pricing for a ten year proposal, since, reasonably, a ten-year term outlined in the original RFP may have enticed other companies to submit a proposal.

Based on the evaluation results of Phase II, the TEC, in conjunction with the EGC, and after review by the City Attorney's Office, decided to invoke the Best and Final Offer (BAFO) process. Through the BAFO process, the City requested that proposers re-evaluate their overall cost proposal as originally submitted on April 24. Additionally, proposers were asked to submit a cost proposal for a two-year period and to provide any additional conditions that the proposer would require in order to accept a two-year contract. Since the TEC was quite concerned about the number of collection routes CWS proposed, the TEC encouraged CWS to re-evaluate its collection route proposal.

Staff included the two-year contract option for garbage and recycling services in the BAFO process in order to explore the feasibility of issuing the 2009 Recycle Plus RFP which would address the issues raised by companies which did not submit a proposal for the 2007 Recycle Plus RFP and information learned from proposers through the oral interview process.

The Request for a Best and Final Offer was issued on June 28, and BAFO responses were received July 10. Specific responses to the BAFO are discussed below for Garbage and Recycling Services and Street Sweeping and Yard Trimming Services.

For garbage and recycling services all companies except California Waste Solutions (CWS) stated that they offered the best pricing to the City in their original proposal. CWS responded to the issue raised in the BAFO letter addressed to CWS regarding sufficient collection routes by increasing the number of routes and thereby increasing the cost of its original price proposal. Table 4 below summarizes the BAFO responses for garbage and recycling services.

TABLE 4			
BAFO RESPONSES FOR GARBAGE AND RECYCLING SERVICES			
Proposer	Request to Re-Evaluate Pricing of Six Year Proposal	Request for Two Year Proposal	Other BAFO Factors
Garden City Sanitation	Declined to Re-Evaluate	Declined	None
Norcal Waste Systems, Inc.	Declined to Re-Evaluate	Accepted	None
California Waste Solutions	Price Increased	Declined	Increased number of Routes/Trucks

Although the City was open to discussing potential issues with a two-year proposal with all proposers, only Norcal Waste Systems offered pricing for a two-year contract.

For the yard trimming and street sweeping services for District C, staff also included a two-year contract option in the BAFO process. GreenWaste, however, did not offer the City a two-year contract.

Award Analysis

In the price proposal forms of the RFP, the City encouraged proposers to provide discounts if the City were to award both service districts for garbage or recycling services. Additionally, through the combined delivery of collection services, proposers were able to provide cost savings to the City. After receipt of the BAFO pricing, the combined award of recycling and garbage collection services was the most cost competitive option for the City. Table 5 summarizes the cost proposals for the three companies which proposed on garbage or recycling services or both services combined. The data represents the annual cost for these services by company.

TABLE 5			
ANNUAL COST PROPOSED FOR COLLECTION SERVICES FOR DISTRICTS A AND C			
Proposer	Garbage Collection Services	Recycling Services	Garbage and Recycling Services
Garden City Sanitation	\$17,140,902	No Proposal Received	No Proposal Received
Norcal Waste Systems, Inc.	\$17,444,269	\$25,140,656	\$30,167,631
California Waste Solutions	\$13,508,117	\$15,162,284	\$27,999,308

Ensuring a comprehensive summary of the various award options as allowed by the Request for Proposal, the discussion below summarizes the evaluation scores for garbage collection services, recycling collection services, and combined garbage and collection services. To preserve the option to award garbage and recycling collection services separately, the TEC evaluated separately each proposal for garbage collection, recycling collection, and combined garbage and recycling collection services. As discussed above, since it is most cost effective to award both districts of the various combinations of collection services, the tables summarize the technical and price scoring, including the local and small business preference, for both service districts.

Table 6 summarizes the scoring for solid waste services. Including the Local Business Preference, Norcal Waste Systems, Inc. received the highest total score. Although California Waste Solutions provided the least expensive proposal, the technical proposal was rated lowest by the TEC.

Table 6					
SOLID WASTE COLLECTION SERVICES FOR DISTRICTS A AND C					
Company Name	Technical Score 65%	Pricing Score 25%	Local Business Preference 5%	Small Business Preference 5%	Total Score 100%
Norcal Waste System, Inc.	54.01	19.36	5.00	0	78.37
Garden City Sanitation	56.82	19.70	0	0	76.52
California Waste Solutions	40.02	25.00	5.00	0	70.02

Similarly, as summarized in Table 7, for recycling services for Service Districts A and C, Norcal's proposal was scored highest albeit that California Waste Solutions' pricing proposal was more competitive. Please note that Garden City Sanitation did not propose on the recycling collection services. Although Eagle Recycling proposed on the Recycling Collection services, it did not score sufficiently high in the technical evaluation to be considered a finalist for the Best and Final Offer process. Eagle Recycling was debriefed about its proposal and allowed to protest the City's decision of disqualifying its proposal. The City's Chief Purchasing Officer did not receive a protest.

TABLE 7					
RECYCLING COLLECTION SERVICES DISTRICTS A AND C					
Company Name	Technical Score 65%	Pricing Score 25%	Local Business Preference 5%	Small Business Preference 5%	Total Score 100%
Norcal Waste Systems, Inc.	51.92	15.08	5.00	0	72.00
California Waste Solutions	40.69	25.00	5.00	0	70.69

As with the proposal evaluation for awarding solid waste and recycling services separately, the evaluation for the combined award of these services resulted in Norcal Waste System's proposal receiving the highest technical score including the five percent credit for a local business enterprise (see Table 8 for details). CWS' pricing score was more competitive. However, given the

evaluation factors and weights, as approved by Council, Norcal Waste System received a total score of 77.64% versus CWS' 69.47%.

TABLE 8					
SOLID WASTE AND RECYCLING COLLECTION SERVICES, DISTRICTS A AND C					
Company Name	Technical Score 65%	Pricing Score 25%	Local Business Preference 5%	Small Business Preference 5%	Total Score 100%
Norcal Waste Systems, Inc.	52.58	20.06	5.00	0	77.64
California Waste Solutions	39.47	25.00	5.00	0	69.47

As discussed above, for the yard trimming and street sweeping services for District C, GreenWaste did not offer the City a two-year contract through the BAFO process. Additionally, Norcal confirmed in its BAFO response letter that it cannot comply with the composting requirements as specified in the RFP. Therefore, Norcal's proposal for yard trimmings and street sweeping services was deemed non-responsive. Therefore, GreenWaste is the only responsive proposal for this service for District C.

Contracting-In Analysis and Communication with City Bargaining Units

In evaluating the methods for providing garbage and recycling services in San José, staff considered the alternative of contracting-in for all or part of the service. An analysis of the in-house provision of these services concluded that, while this alternative may be feasible and desirable in the future, the initial costs to the City and the time required to procure trucks, facilities and other start-up costs are significant and, therefore, contracting-in is not recommended at this time.

The rationale and recommendation to pursue only contractual service delivery for garbage and recycling services in the current RFP was communicated to all relevant City employee bargaining units in January 2006. No issues or concerns have been raised by the bargaining units.

Protest Period and Investigation by the City's External Auditor

In accordance with the Council-approved RFP process, upon release of the recommendation memorandum to Council, Finance will issue a letter to all proposers advising them of the City's award recommendation and the commencement of the administrative protest period. From the release date of this memorandum on August 1, proposers have ten days or until Friday, August 10 at 5 pm to protest the award recommendation to the City's Chief Purchasing Officer. A supplemental memorandum discussing any protests received and the respective resolution will be issued to Council on August 14.

The City of San José received copies of two letters, dated June 2 and June 7, sent to the California Waste Solutions (CWS) from the Business Representative for the Sanitary Truck Drivers and Helpers, Local No. 350. In their letters, the Teamsters alleged that CWS removed unprocessed recyclable material from the San José Materials Recovery Facility. The contract between Norcal

and the City of San José, with CWS serving as a subcontractor for the processing of recyclable materials, stipulates that all processing of recyclable materials needs to occur at CWS' facility in San José, unless directed otherwise by the City. Since the Technical Evaluation Committee visited CWS' Material Recovery Facility on June 7 to assess CWS' operational capacity and capability to process recyclable materials, Finance requested an independent investigation to determine whether the removal of the recyclable materials compromised the procurement process and warrants disqualification of CWS' proposal. Additionally, the City asked Macias to determine whether City staff appropriately administered the current contract with Norcal and CWS as Norcal's subcontractor. The investigation, to be conducted by Macias Consulting Group, Inc., the City's external auditor, is scheduled for completion by August 9. The results of the investigation will be issued to Council via a Supplemental Memorandum on August 14.

SUMMARY

Finance led this highly visible and complex procurement in accordance with Council direction from January 24, procurement process integrity guidelines, and recently approved process enhancements for Request for Proposals. As outlined in the organizational structure for this procurement, the various committees had clearly defined roles and responsibilities which ensured accountability and support for this procurement. The Technical Evaluation Committee was comprised of technical experts representing various City functions and local agencies supported by a competent team of technical advisors.

Through a clearly outlined procurement process which followed best practices in public procurement, staff arrived at this pragmatic award recommendation.

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